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7

8 **BEFORE THE**
9 **BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation) NO. AC-95-4
Against:)
13)
14 WILLIAM EUGENE SCHACHT) DEFAULT DECISION AND
2550 Appian Way #211) ORDER OF THE BOARD
Pinole, CA 94564)
15)
16 Certified Public Accountant) [Gov. Code §11520]
Certificate No. 24587)
17 Respondent.)
18

19 **STATUTES**

20 1. California Government Code section 11506 provides,
21 in pertinent part:

22 "(b) The respondent shall be entitled to a hearing on
23 the merits if he files a notice of defense, and any such
24 notice shall be deemed a specific denial of all parts of the
25 accusation not expressly admitted. Failure to file such
26 notice shall constitute a waiver of respondent's right to a
27 hearing, but the agency in its discretion may nevertheless

1 grant a hearing...".

2 2. California Government Code section 11520 provides,
3 in pertinent part:

4 "(a) If the respondent fails to file a notice of
5 defense or to appear at the hearing, the agency may take
6 action based upon the respondent's express admissions or
7 upon other evidence and affidavits may be used as evidence
8 without any notice to respondent...".

9 3. The Board of Accountancy, Department of Consumer
10 Affairs ("Board"), is authorized to revoke respondent's Certified
11 Public Accountant Certificate pursuant to the following
12 provisions of the California Business and Professions Code:

13 a. Section 5100 provides that the Board may revoke,
14 suspend or refuse to renew any permit or certificate issued by
15 the Board, or may censure the holder of any such permit or
16 certificate, including for violations of:

17 section 5100(a) (a crime substantially related to the
18 duties of an accountant);

19 section 5100(h) (fiscal dishonesty or breach of
20 fiduciary responsibility of any kind);

21 section 5100(j) (embezzlement, theft, misappropriation
22 of funds or property, or obtaining money, property, or
23 other valuable consideration by fraudulent means or
24 false pretenses); and

25 section 5100(f) (violations of Board rules).

26 4. California Business and Professions Code section
27 118 provides, in pertinent part:

1 "(b) The suspension, expiration, or forfeiture by
2 operation of law of a license issued by a board in the
3 department, or its suspension, forfeiture, or cancellation
4 by order of the board or by order of a court of law, or its
5 surrender without the written consent of the board, shall
6 not, during any period in which it may be renewed, restored,
7 reissued, or reinstated, deprive the board of its authority
8 to institute or continue a disciplinary proceeding against
9 the licensee upon any ground provided by law or to enter an
10 order suspending or revoking the license or otherwise taking
11 disciplinary action against the license on any such ground."

12
13 FINDINGS OF FACT

14 5. Pursuant to its authority under Government Code
15 section 11520, and based on the evidence before it, the Board of
16 Accountancy, Department of Consumer Affairs, State of California
17 ("Board") finds that the following allegations contained in
18 Accusation No. AC-95-4 are true.

19 6. On or about April 22, 1977, Certified Public
20 Accountant Certificate No. CPA 24587 was issued to respondent
21 William Eugene Schacht (hereinafter "respondent"), by the Board,
22 under the laws of the State of California. Said certificate was
23 in full force and effect until it expired subject to renewal on
24 December 1, 1991, for failure to pay the required renewal fee and
25 failure to submit evidence of compliance with continuing
26 education requirements.

27 7. On or about December 21, 1994, Complainant Carol

1 Sigmann, in her official capacity as Executive Officer of the
2 Board, filed Accusation No. AC-95-4 against respondent. A copy
3 of the Accusation is attached hereto as Exhibit A and
4 incorporated herein.

5 8. On or about January 18, 1995, Victoria Rivera, an
6 employee of the Office of the Attorney General, sent by certified
7 mail a copy of Accusation No. AC-95-4, Statement to Respondent,
8 Government Code sections 11507.5, 11507.6, and 11507.7, the
9 Notice of Defense form, and a Request for Discovery, to
10 respondent's address of record with the Board and to other
11 addresses known to the Board to be likely to be addresses at
12 which respondent would receive mail. On or about April 10, 1995,
13 respondent verbally requested that a hearing be scheduled in the
14 matter. Respondent represented that he was moving to Florida,
15 but that he wanted a hearing, and that he would apprise the Board
16 and Board counsel of his whereabouts in Florida.

17 9. Additional copies of the Accusation package as well
18 as copies of the notice of hearing were served by mail upon
19 respondent at several addresses available to the Board, including
20 his address of record and an address he specified to Board
21 counsel. No address in Florida was provided, nor has there been
22 further contact between the respondent and the Board or Board
23 counsel. Several of the notices of hearing were returned to the
24 Office of the Attorney General by the USPS with the notation "no
25 forwarding address." The above-described service was effective
26 as a matter of law pursuant to the provisions of California
27 Government Code section 11505, subdivision (c).

1 10. Respondent failed to appear at the designated
2 hearing room on the day set for the hearing, and has waived his
3 right to a hearing.

4 11. On or about March 9, 1993, respondent pled nolo
5 contendere to, and was convicted of, in Case No. 143532 (*People*
6 *v. William von Weiland, John G. Simeon, and William E. Schacht*),
7 in the San Francisco City and County Superior Court, six felony
8 counts and one misdemeanor count involving his dealings with his
9 client, Ms. Catherine Doliani, to wit:

10 (1) one count of grand theft in violation of Penal
11 Code section 487.1, with enhancements;

12 (2) one count of theft from a dependent adult in
13 violation of Penal Code section 368(c), with
14 enhancements;

15 (3) one count of cruelty to a dependent adult in
16 violation of Penal Code Section 368(b), a misdemeanor;

17 (4) one count of conspiracy to commit a crime in
18 violation of Penal Code Section 182.1;

19 (5) one count of signing a false personal tax return
20 (for 1989) in violation of Revenue and Taxation Code
21 Section 19405(a); and

22 (6) two counts of failing to file a tax return or
23 filing a false personal tax return (for 1989 and 1990)
24 in violation of Revenue and Taxation Code Section
25 19406.

26 The first two counts (grand theft and theft from a
27 dependant adult) involve the excessive taking of funds

1 [violations of Penal Code Section 12022.6(b)] in that the value
2 of the property taken exceeded \$100,000 with respect to each of
3 the first two counts. Respondent was sentenced on August 3,
4 1993, to state prison for two years (with credit for 237 days
5 already served). The court found respondent, based on the
6 evidence and the probation report, guilty of all offenses in the
7 case.

8 12. The victim of the crimes, Catherine Doliani, had
9 been a public accounting client of the respondent since 1978.
10 Ms. Doliani, who was born on April 5, 1898, was 93 years of age
11 when, in 1991, respondent acted as best man in her marriage to
12 respondent's co-defendant (who was also convicted in a related
13 criminal proceeding), William von Weiland, then age 48.

14 13. On or about November 30, 1988, respondent and von
15 Weiland hired an attorney to prepare a Durable Power of Attorney,
16 which was executed by the victim on December 27, 1988.

17 14. In 1989, respondent accepted a \$ 500,000 revolving
18 line of credit from the victim for BX-100 International, Inc., a
19 company of which he was the C.E.O.

20 15. Respondent signed several promissory notes,
21 totalling at least \$350,000 to the victim on behalf of BX-100
22 International, Inc.

23 16. On September 5, 1989, respondent signed a grant
24 deed from the victim giving him and his wife a 2/3 interest in
25 the victim's mansion located at 1001 Vallejo Street in San
26 Francisco. The deed placed the title in joint tenancy and there
27 was no consideration for this change in ownership.

1 17. In October 1989, respondent purchased stock in
2 Sequoia National Bank in the name of Catherine Doliani for
3 \$418,242, which stock had minimal value when returned to the
4 victim after the prosecution.

5 18. Respondent deposited \$50,000 of Ms. Doliani's
6 funds directly into his personal checking account.

7 19. Respondent and co-defendant von Weiland made
8 themselves executors and co-trustees for Ms. Doliani's estate on
9 October 25, 1990.

10 20. The following facts are true and are relevant to
11 the penalty to be imposed in this case:

12 a. respondent's conduct involved the actual taking of
13 great monetary value;

14 b. respondent took advantage of a position of trust or
15 confidence to commit the offenses; and

16 c. respondent took advantage of an aged, long-term
17 client.

18
19 DETERMINATION OF ISSUES

20 By reason of the foregoing Findings of Fact, respondent
21 is subject to disciplinary action under Section 5100 of the
22 Business and Professions Code based upon each of the following
23 determinations and upon all of them:

24 1. The crime of which respondent was convicted is
25 substantially related to the practice of his profession, and
26 provides the basis for discipline of respondent's license under
27 section 5100(a) and Rule 99.

1 2. Respondent's conduct constitutes fiscal dishonesty
2 and/or breach of fiduciary responsibility, in violation of
3 Section 5100(h) in that Ms. Doliani was his client and in that he
4 was a co-trustee of her assets.

5 3. Respondent's conduct constitutes embezzlement,
6 theft, misappropriation of funds or property, and/or obtaining
7 money, property, or other valuable consideration by fraudulent
8 means or false pretenses, in violation of Section 5100(j).

9 4. Respondent's conduct constitutes fiscal dishonesty
10 or the breach of fiduciary duty under Rule 60 in conjunction with
11 section 5100(f).

12 5. Each of the factors in the Findings of Fact,
13 paragraph 20, constitutes a factor in aggravation of penalty, and
14 the factors have been considered in the imposition of this
15 disciplinary order.

16 6. Accordingly, cause for revocation has been
17 established, separately and severally, based upon each of the
18 foregoing determinations and upon all of them.

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8 BEFORE THE
BOARD OF ACCOUNTANCY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation)
Against:)

ACCUSATION NO. AC-95-4

12 William Eugene Schacht)
13 2550 Appian Way #211)
Pinole, CA 94564)

14 Certified Public Accountant)
15 Certificate No. CPA 24587,)

16 Respondent.)
17

18 CAROL SIGMANN charges and alleges:

19 1. She is the Executive Officer of the California
20 State Board of Accountancy (hereinafter the "Board") and makes
21 and files this accusation solely in her official capacity.

22 LICENSE INFORMATION

23 2. On or about April 22, 1977, Certified Public
24 Accountant Certificate No. CPA 24587 was issued to respondent
25 William Eugene Schacht (hereinafter "respondent"), by the Board,
26 under the laws of the State of California. Said certificate was
27 in full force and effect until it expired subject to renewal on

1 December 1, 1991, for failure to pay the required renewal fee and
2 failure to submit evidence of compliance with continuing
3 education requirements.

4 STATUTES, REGULATIONS, AND PROFESSIONAL STANDARDS

5 3. This accusation is brought under the authority of
6 Section 5100 of the Business and Professions Code (hereinafter
7 "Code") which provides that the Board may revoke, suspend or
8 refuse to renew any permit or certificate issued by the Board, or
9 may censure the holder of any such permit or certificate for
10 unprofessional conduct, including any of the causes therein.

11 4. Section 5100(a) of the Code at all relevant times
12 provided and now provides, in pertinent part, that a licensee's
13 certificate may be revoked if the licensee is convicted of any
14 crime substantially related to the qualifications, functions, and
15 duties of a CPA.

16 5. Section 5100(h) of the Code at all relevant times
17 provided and now provides that a licensee's certificate may be
18 revoked for fiscal dishonesty or breach of fiduciary
19 responsibility of any kind.

20 6. Section 5100, subdivision (j) of the Code at all
21 relevant times provided and now provides, in pertinent part, that
22 embezzlement, theft, misappropriation of funds or property, or
23 obtaining money, property, or other valuable consideration by
24 fraudulent means or false pretenses constitutes unprofessional
25 conduct.

26 7. Section 5100, subdivision (f) of the Code at all
27 relevant times provided and now provides, in pertinent part, that

1 willful violation of any provision of the Accountancy Act or any
2 rule or regulation promulgated by the Board under the authority
3 granted under the Act constitutes unprofessional conduct.

4 8. Board Rule 60 (Section 60 of Title 16 of the
5 California Code of Regulations) provides that a licensee shall
6 not engage in conduct which constitutes fiscal dishonesty or
7 breach of fiduciary responsibility of any kind.

8 9. Board Rule 99 provides that a crime or act shall
9 be considered to be substantially related to the qualifications,
10 functions, or duties of a CPA if, to a substantial degree, it
11 evidences present or potential unfitness to perform the functions
12 authorized by the licensee's certificate or permit in a manner
13 consistent with the public health, safety, or welfare. Rule 99
14 sets forth the applicable substantial relationship criteria,
15 which include (a)(fiscal dishonesty or breach of fiduciary
16 responsibility of any kind); and (c)(dishonesty, fraud, or gross
17 negligence in the practice of public accountancy).

18 CHARGES AND ALLEGATIONS

19 10. Respondent is subject to disciplinary action
20 pursuant to section 5100(a) of the Business and Professions Code
21 in that, on or about March 9, 1993, he pled nolo contendere to,
22 and was convicted, in Case No. 143532 (People vs. William von
23 Weiland, John G. Simeon, and William E. Schacht), in the San
24 Francisco City and County Superior Court, of six felony counts
25 and one misdemeanor count involving his dealings with his client,
26 Ms. Catherine Doliani, to wit:

27 a. one count of grand theft in violation of Penal Code

1 section 487.1, with enhancements;
2 b. one count of theft from a dependent adult in violation of
3 Penal Code section 368(c), with enhancements;
4 c. one count of cruelty to a dependent adult in violation of
5 Penal Code Section 368(b), a misdemeanor;
6 d. one count of conspiracy to commit a crime in violation of
7 Penal Code Section 182.1;
8 e. one count of signing a false personal tax return (for
9 1989) in violation of Revenue and Taxation Code Section
10 19405(a); and
11 f. two counts of failing to file a tax return or filing a
12 false personal tax return (for 1989 and 1990) in violation
13 of Revenue and Taxation Code Section 19406.

14 Said crimes are substantially related to the practice
15 of his profession. With respect to the first two counts (grand
16 theft and theft from a dependant adult), respondent was charged
17 with, and admitted, enhancements regarding excessive taking of
18 funds [violations of Penal Code Section 12022.6(b)] in that the
19 value of the property taken exceeded \$100,000 with respect to
20 each of the first two counts.

21 11. The circumstances are that the victim of the
22 crimes, Catherine Doliani, was a public accounting client of the
23 respondent since 1978. Ms. Doliani, who was born on April 5,
24 1898, was 93 years of age when, in 1991, respondent acted as best
25 man in her marriage to respondent's co-defendant, William von
26 Weiland, then age 48.

27 12. The counts to which respondent pled included,

1 *inter alia*, the following "overt actions":

2 a. On or about November 30, 1988, respondent and von
3 Weiland (hereinafter "co-defendant") hired an attorney to
4 prepare a Durable Power of Attorney, which was executed by
5 the victim on December 27, 1988.

6 b. In 1989, respondent accepted a \$ 500,000 revolving line
7 of credit from the victim for BX-100 International, Inc., a
8 company of which he was the C.E.O.

9 c. Respondent signed several promissory notes, totalling at
10 least \$350,000 to the victim on behalf of BX-100
11 International, Inc.

12 d. On September 5, 1989, respondent signed a grant deed from
13 the victim giving him and his wife a 2/3 interest in the
14 victim's mansion located at 1001 Vallejo Street in San
15 Francisco. The deed placed the title in joint tenancy and
16 there was no consideration for this change in ownership.

17 e. In October 1989, respondent purchased stock in Sequoia
18 National Bank in the name of Catherine Doliani for \$418,242,
19 which stock had minimal value when returned to the victim
20 after the prosecution.

21 f. Respondent deposited \$50,000 of Ms. Doliani's funds
22 directly into his personal checking account.

23 g. Respondent and co-defendant von Weiland made themselves
24 executors and co-trustees for Ms. Doliani's estate on
25 October 25, 1990.

26 13. Respondent was sentenced on August 3, 1993, to
27 state prison for two years (with credit for 237 days already

1 served). The court found respondent, based on the evidence and
2 the probation report, guilty of all offenses in the case. Prior
3 to sentencing respondent, the court presided over a lengthy trial
4 of respondent's co-conspirator, who was found guilty and
5 sentenced to 8 years in prison after standing trial.

6 14. Incorporating herein the matters set forth in
7 paragraphs 10 through 13, respondent's license is subject to
8 discipline pursuant to section 5100(h) in that his conduct
9 constitutes fiscal dishonesty and/or breach of fiduciary
10 responsibility in that Ms. Doliani was his client and in that he
11 was a co-trustee of her assets.

12 15. Incorporating herein the matters set forth in
13 paragraphs 10 through 13, respondent's license is subject to
14 discipline pursuant to 5100(j) in that his conduct constitutes
15 embezzlement, theft, misappropriation of funds or property,
16 and/or obtaining money, property, or other valuable consideration
17 by fraudulent means or false pretenses.

18 16. Incorporating herein the matters set forth in
19 paragraphs 10 through 13, respondent's license is subject to
20 discipline under Rule 60 in conjunction with section 5100(f) in
21 that respondent's conduct constitutes fiscal dishonesty or the
22 breach of fiduciary duty.

23
24 OTHER MATTERS

25 17. Pursuant to Business and Professions Code section
26 5107, it is requested that the administrative law judge, as part
27 of the proposed decision in this proceeding, direct respondent to

1 pay to the Board all reasonable costs of investigation and
2 prosecution in this case, including, but not limited to,
3 attorneys' fees.

4 18. It is charged, in aggravation of penalty, that the
5 respondent's crimes involved the actual taking of great monetary
6 value; that he took advantage of a position of trust or
7 confidence to commit the offenses; and that he took advantage of
8 an aged, long-term client.

9 PRAYER

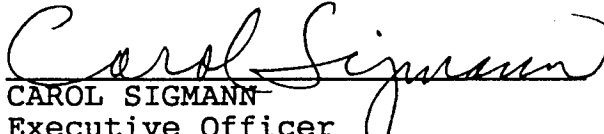
10 WHEREFORE, the complainant requests that a hearing be
11 held on the matters herein alleged, and that following said
12 hearing, a decision be issued:

13 1. Revoking or suspending Certified Public Accountant
14 Number 24587, heretofore issued to respondent;

15 2. Awarding the Board costs as provided by Business
16 and Professions Code Section 5107; and

17 3. Taking such other and further action as the Board
18 deems proper.

19 Dated: December 21, 1994.

20
21 
22 CAROL SIGMANN
23 Executive Officer
24 Board of Accountancy
25 Department of Consumer Affairs
26 State of California

27 Complainant